

ISSUED: April 8, 2002

D.T.E. 02-13

Investigation by the Department of Telecommunications and Energy on its own motion, pursuant to G.L. c. 159, §§ 12, 32, and 39 and G.L. c. 166, §§ 11 and 12, regarding the failure by several individually named common carriers of telecommunications services to file their annual returns for the year 2000 by March 31, 2001 and to pay statutory forfeitures.

VOTE AND ORDER TO OPEN INVESTIGATION

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I. INTRODUCTION

The Department requires that all common carriers that are engaged in the “transmission of intelligence within the commonwealth,” i.e. telecommunications services, must be registered by having an approved tariff on file with the Department as well as a current statement of business operations. Regulatory Treatment of Telecommunications Common Carriers Within the Commonwealth of Massachusetts, D.P.U. 93-98 at 12; G.L. c. 159, § 12. All common carriers of telecommunications services within the Commonwealth also must file with the Department annual returns for the year ended December 31, by March 31 of the following year, in a format prescribed by the Department. G.L. c. 159, §§ 12, 32; G.L. c. 166, § 11.

The Department’s records indicate that forty-three such common carriers failed to file annual returns for the year 2000. These carriers are named individually in Appendix A of this Order. The Department believes that the carriers were registered during the year 2000 to provide telecommunications services within the Commonwealth, because the Department has on file approved tariffs and statements of business operations for these carriers, and the Department had these documents on file during the year 2000. Therefore, the Department has reason to believe that these carriers are obligated to file annual returns for the year 2000. The Department’s Telecommunications Division notified these carriers by certified mail that the Department would extend the deadline for filing, but only if the carriers filed by

July 28, 2001.¹ The Telecommunications Division notified the carriers two additional times by certified mail that the Department had not received their annual returns for the year 2000 and that their failure to file may be in violation of the law. The Department has no record of these carriers having filed annual returns for the year 2000.

The Department's records also indicate that seven common carriers of telecommunications services within the Commonwealth filed their annual returns for the year 2000 after the March 31, 2001 deadline, but did not pay statutory forfeitures to the Commonwealth. These carriers are named individually in Appendix B of this Order. The Department gave these carriers further notice by certified mail that they were required to pay forfeitures to the Commonwealth and that their failure to pay may be in violation of law.

Any telephone company that neglects to file the required annual return forfeits to the Commonwealth five dollars per day for the first fifteen days that the neglect continues, ten dollars per day for the next fifteen days, and fifteen dollars per day for each day thereafter. G.L. c. 166, § 12. Further, if the Department determines that a telephone company "unreasonably refuses or neglects to make such return," the company shall forfeit up to \$500 in addition. Id. If, in the judgment of the Department, a common carrier neglects to make returns as required by law, the Department is obligated to present the facts to the Attorney General for enforcement. G.L. c. 159, § 39.

¹ The Department has the authority to set a deadline for filing annual returns other than on March 31 "for good cause shown." G.L. c. 159, § 32.

II. VOTE TO OPEN INVESTIGATION

Consistent with above, the Department will investigate whether the carriers listed in Appendix A have neglected or refused to file annual returns and whether this neglect or refusal was unreasonable. G.L. c. 159, §§ 32, 39; G.L. c. 166, §§ 11, 12; D.P.U. 93-98, at 12. The Department also will investigate why the carriers listed in Appendix B have failed to pay statutory forfeitures. G.L. c. 159, §§ 32, 39; G.L. c. 166, §§ 11, 12; D.P.U. 93-98, at 12. Should any of the carriers named in Appendices A or B fail to respond or to produce the information sought in these proceedings, or otherwise default in its obligation to appear before the Department, the Department may make adverse findings of fact, issue orders against the carrier, and refer the matter to the Attorney General for enforcement.

Accordingly, on its own motion, the Department votes to open these investigations. The Department intends for these proceedings to be conducted as adjudicatory proceedings, as defined in G.L. c. 30A, § 1(1). The proceedings for each carrier under investigation are to be considered as independent proceedings, and each will have a separate evidentiary record. These proceedings will be docketed under the generic docket number, D.T.E. 02-13, with a sequential number for each individual case. The docket numbers assigned to the proceedings for each individual carrier are listed in Appendices A and B. In reviewing a carrier's obligation to file annual returns for the year 2000, the Department may consider, but not limit itself to considering, the extent and nature of the carrier's operations within the Commonwealth as well as the carrier's revenues for the year 2000.

The hearings will begin on Thursday, April 25, 2002. The Department will convene a separate public hearing for each carrier to receive comments from the public or the legislature. Immediately after each public hearing, the Department will convene an evidentiary hearing. The dates and times of the hearings are set forth in Appendices A and B. The hearings will continue from day to day until completed. The Department invites all interested persons who are substantially and specifically affected by the issues under investigation to petition to intervene in these proceedings. Petitions to intervene in these dockets must be filed with the Secretary of the Department by 10:00 a.m., on Monday, April 22, 2002, referencing the complete docket number assigned to a specific company.

III. ORDER

Accordingly, the Department

VOTES: To open investigations into the failure of those carriers to file annual returns or pay statutory forfeitures, or both, and it is

ORDERED: That public hearings and evidentiary hearings will be held at the offices of the Department beginning on Thursday, April 25, 2002, at 10:00 a.m., as scheduled in Appendices A and B of this Order, and continuing from day to day until completed; and it is

FURTHER ORDERED: That petitions to intervene in this investigation shall be filed with the Secretary of the Department by 10:00 a.m., on Monday, April 22, 2002.

By Order of the Department,

James Connelly, Chairman

W. Robert Keating, Commissioner

Paul B. Vasington, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Deirdre K. Manning, Commissioner

APPENDIX A

<u>Carrier</u>	<u>Docket Number</u>	<u>Time and Date</u>
Advanced Communications Systems D.T.E.	02-13-1	April 25, 2002, 10:00 a.m.
Advanced Telecommunications Network	D.T.E. 02-13-2	April 25, 2002, 10:00 a.m.
American Nortel Communications, Inc.	D.T.E. 02-13-3	April 25, 2002, 10:00 a.m.
Apco Telecommunications, Inc.	D.T.E. 02-13-4	April 25, 2002, 11:00 a.m.
Boston Telecommunications Services	D.T.E. 02-13-5	April 25, 2002, 11:00 a.m.
Business Options	D.T.E. 02-13-6	April 25, 2002, 11:00 a.m.
Calls for Less	D.T.E. 02-13-7	April 25, 2002, 12:00 p.m.
Cash Back Rebates LD.com, Inc.	D.T.E. 02-13-8	April 25, 2002, 12:00 p.m.
Ecocom USA Limited	D.T.E. 02-13-9	April 25, 2002, 12:00 p.m.
Erbia Network	D.T.E. 02-13-10	April 25, 2002, 2:00 p.m.
First Regional TeleCom, LLC	D.T.E. 02-13-11	April 25, 2002, 2:00 p.m.
Global Broadband, Inc.	D.T.E. 02-13-12	April 25, 2002, 2:00 p.m.
Global Time, Inc.	D.T.E. 02-13-13	April 25, 2002, 3:00 p.m.
INET Interactive System, Inc.	D.T.E. 02-13-14	April 25, 2002, 3:00 p.m.
International Thinklink	D.T.E. 02-13-15	April 25, 2002, 3:00 p.m.
Legends Communications	D.T.E. 02-13-16	April 25, 2002, 4:00 p.m.
Lyxom, Inc.	D.T.E. 02-13-17	April 25, 2002, 4:00 p.m.
NOR Communications	D.T.E. 02-13-18	April 25, 2002, 4:00 p.m.
Norstar Communications	D.T.E. 02-13-19	April 26, 2002, 10:00 a.m.
Nova Telecom, Inc	D.T.E. 02-13-20	April 26, 2002, 10:00 a.m.
Orion Telecommunications	D.T.E. 02-13-21	April 26, 2002, 10:00 a.m.
Ozark Telecom, Inc.	D.T.E. 02-13-22	April 26, 2002, 11:00 a.m.
Paradigm Communications Corporation	D.T.E. 02-13-23	April 26, 2002, 11:00 a.m.
Professional Communications Services, Inc	D.T.E. 02-13-24	April 26, 2002, 11:00 a.m.
Small Business Billing, Inc	D.T.E. 02-13-25	April 26, 2002, 12:00 p.m.
Sterling Time Company	D.T.E. 02-13-26	April 26, 2002, 12:00 p.m.
Telera Communications	D.T.E. 02-13-27	April 26, 2002, 12:00 p.m.
Uki Communications, Inc.	D.T.E. 02-13-28	April 26, 2002, 2:00 p.m.
United Technological Systems, Inc.	D.T.E. 02-13-29	April 26, 2002, 2:00 p.m.
Voice Vision International	D.T.E. 02-13-30	April 26, 2002, 2:00 p.m.
Xtracom, Inc.	D.T.E. 02-13-31	April 26, 2002, 3:00 p.m.
Brighton Billiards	D.T.E. 02-13-32	April 26, 2002, 3:00 p.m.
Davio's Restaurant	D.T.E. 02-13-33	April 26, 2002, 3:00 p.m.
DCA Telecom	D.T.E. 02-13-34	April 26, 2002, 4:00 p.m.
Matchless Communications	D.T.E. 02-13-35	April 26, 2002, 4:00 p.m.
Robert A. LaPointe	D.T.E. 02-13-36	April 26, 2002, 4:00 p.m.
Rodney Nunes	D.T.E. 02-13-37	April 29, 2002, 10:00 a.m.
Shepal Management	D.T.E. 02-13-38	April 29, 2002, 10:00 a.m.

Standard Taxi	D.T.E. 02-13-39	April 29, 2002, 10:00 a.m.
Strat-O-Matic	D.T.E. 02-13-40	April 29, 2002, 11:00 a.m.
Teletech	D.T.E. 02-13-41	April 29, 2002, 11:00 a.m.
Terrasi & Sons	D.T.E. 02-13-42	April 29, 2002, 11:00 a.m.
TLC Payphones Communications	D.T.E. 02-13-43	April 29, 2002, 11:00 a.m.

APPENDIX B

Americom Technologies	D.T.E. 02-13-44	April 29, 2002, 1:00 p.m.
Enhanced Communications	D.T.E. 02-13-45	April 29, 2002, 1:00 p.m.
Jirehcom	D.T.E. 02-13-46	April 29, 2002, 1:00 p.m.
Long Distance Billing Services	D.T.E. 02-13-47	April 29, 2002, 2:00 p.m.
Maxtel USA	D.T.E. 02-13-48	April 29, 2002, 2:00 p.m.
Natel, LLC	D.T.E. 02-13-49	April 29, 2002, 2:00 p.m.
Transworld Network Corp.	D.T.E. 02-13-50	April 29, 2002, 2:00 p.m.